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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

October 31, 1994

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CE 92-77

The Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Mr. Chairman:

I understand that the Federal Communications Commission has proposed a new rule that would change the way some types of operator-assisted telephone calls are processed. Among the calls that would be affected are collect calls originating from correctional facilities. The proposed rule, called the "Billed Party Preference" (BPP) rule, would require prisons and jails to change systems currently used to screen and block inmate telephone calls. The Bureau of Prisons and a number of correctional facilities believe that the new rule would seriously impact their ability to control inmate calls, resulting in increased criminal activities over the telephone. I urge you not to apply the new rule to correctional facilities.

Both the Federal Bureau of Prisons and the Office for Victims of Crime, two agencies within the Department of Justice, have expressed concern that BPP might jeopardize the current capability of correctional agencies to control and monitor inmate telephone use. This capability is crucial in maintaining the security of correctional facilities, the safety of the general public, and special protections for victims and witnesses of crime. A telephone call that brings the voice of a victim's assailant from prison into the victim's home is a terrifying, revictimizing experience. Receiving such a call reinforces the feeling many victims and witnesses have that they can never be safe.

I am enclosing for your consideration ex parte comments on the Billed Party Preference rule from the Bureau of Prisons and the Office for Victims of Crime. An additional two copies of

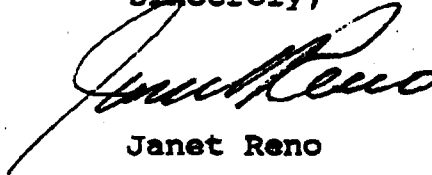
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each set of comments have been submitted to the Commission's Secretary for inclusion in the public record.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in cursive script, appearing to read "Janet Reno", written in dark ink.

Janet Reno

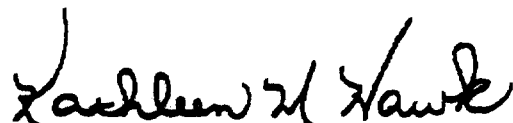
Enclosures

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
Billed Party Preference)
for 0+ InterLATA Calls)

CC Docket No. 92-77

EX PARTE COMMENTS OF THE FEDERAL BUREAU OF PRISONS
UNITED STATES DEPARTMENT OF JUSTICE
ON FURTHER NOTICE OF PROPOSED RULEMAKING


Kathleen M. Hawk
Director
Federal Bureau of Prisons
U.S. Department of Justice
320 First Street, N.W.
Washington, D.C. 20534
(202) 307-3250

Dated:

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The Federal Bureau of Prisons submits further comments in response to the Federal Communication Commission's (FCC) proposal for a nationwide rule requiring implementation of Billed Party Preference (BPP). The Bureau strongly endorses a rule that provides freedom of choice and savings to the public, as BPP promises. However, the Bureau of Prisons does not support BPP because it does not exempt prisons and correctional facilities. Without such an exemption, BPP will compromise the control of prison telephone systems. Loss of control of prison telephone systems will lead to less secure phone systems and result in higher incidence of prisoner induced fraud, manipulation of collect call operators, and further criminal activity from within prisons. The Commission has made exemptions in the past for prisons and correctional facilities. The Bureau of Prisons strongly recommends that an exemption to the Billed Party Preference rule for prisons and correctional facilities is appropriate in this situation.

The purpose of this supplemental submission is to highlight examples of problems encountered by the Bureau of Prisons with respect to collect calls for prisoners and the difficulty in dealing with multiple Interexchange Carriers (IXCs) and Local Exchange Carriers (LECs). One responsibility of the Bureau of Prisons, and of all prison systems, is to protect the public. The Bureau of Prisons has extensive experience with collect call telephone service for prisoners. Our prisoner calling program currently deals with LECs and IXCs for 75 institutions in 37 states. For the past six years we have developed and evaluated calling features which are intended to prevent fraud and improve security and control over what has been offered in the past.

In July, 1994 a major IXC, without prior notification to the Bureau of Prisons, made a significant change to the telephone service provided to several Bureau of Prisons facilities which had not implemented the Inmate Telephone System (ITS). An automatic announcement was included on all collect calls stating that the call was being placed from a prison facility. The Bureau of Prisons had previously rejected the IXC offer of adding this announcement to its prison facilities which allowed collect calls. The automatic announcement resulted in attorneys declining telephone calls from pretrial detainees and other prisoners because there was no voice identification of the caller. Prisoner's family members also encountered problems with the automatic announcement. If the Bureau had not taken quick action to have the IXC restore the previous service, the situation could have resulted in claims being brought against the Bureau, including the denial of the Sixth Amendment right to counsel. Shortly after the carrier implemented this change, the carrier reverted back to the standard service because of the problems that the automatic announcement created for both the public and the federal prison facilities.

At the Bureau facility in Ashland, Kentucky a carrier did not notify the Bureau before it discontinued overseas collect call service. Not all carriers place overseas collect calls. Twenty-two percent of the prisoners in the federal prison system are foreign nationals and overseas collect calling is very important to them. This unexpected change caused the prisoner population's tension to heighten because they were concerned that this change was discriminatory as it affected only foreign nationals. If the Bureau had been informed before the change, we could have prepared the prisoner population for it. This situation was one of the major contributing factors in the Bureau's design of the Inmate Telephone System (ITS), which allows prisoners to place direct dial telephone calls. The Bureau's new telephone system allows limited collect call service for pretrial detainees, holdover prisoners, and newly committed prisoners.

A similar situation occurred at the Bureau facility in El Reno, Oklahoma. Without prior notification to the Bureau of Prisons, the carrier suddenly discontinued telephone calls to Mexico. Prisoner tension was heightened to the point that special concessions had to be made with the carrier to restore the service as quickly as possible.

Another problem area that will continue with the BPP rule, and that the Bureau's ITS phone system was designed to prevent, is inconsistency in the types of screening systems available from LECs. When utilizing LECs, collect call service with live operators is the only type of service available. For those federal prison facilities where ITS has not been installed, the Bureau of Prisons is providing collect call service through the LEC. With live operator collect call service, a critical security feature is the use of prisoner calling screens which enable a telephone call to be blocked from being charged back to the line, or charged to a third party, or blocked from a charge to a credit card. However, specific tariff regulations and limitations in most states using Customer Provided Equipment (CPE) prevented the Bureau of Prisons from obtaining prisoner call screening services or collect call service at all.

This method of providing collect service through access lines is the same method which must be utilized if BPP is enacted. The Bureau of Prisons will not provide collect call service to the prisoner population if calls cannot be blocked from being charged back to the line, charged to a third party, or blocked from the use of credit cards. BPP will frustrate security in our prison facilities by interjecting live collect call operators into the system.

The following examples illustrate the problems encountered by the Bureau of Prisons, and other correctional facilities, in installing a nationwide prisoner telephone system using LECs and live operators to facilitate collect calls.

- 1) BPP would require live operators to be used on most collect call access lines. The Bureau has uncovered numerous instances at federal prison facilities where prisoners have manipulated and coerced live operators into placing telephone calls to victims and witnesses home numbers, altering billing methods, allowing calling cards, or operators not recognizing the screen coding and placing a call that is prohibited. These instances occurred at prison facilities that do not have the new Inmate Telephone System and collect calls are made through the LEC. Because this is a common occurrence, this particular situation is constantly monitored by our internal intelligence. BPP would frustrate any security feature utilizing automated collect call operator systems. No matter how well live operators are trained they are subject to prisoner manipulation.
- 2) Many LECs are not tariffed to provide what is typically referred to as Public Access Lines (PAL) with prisoner call screening. Because of this, the Bureau of Prisons could not acquire prisoner screening through its prisoner telephone equipment at the Federal Correctional Institution in Fort Dix, New Jersey.
- 3) Some LECs will not provide prisoner screening service for Customer Provided Equipment. In Englewood, Colorado, the Bureau of Prisons' request was denied for prisoner screening for collect call service through our CPE.
- 4) LECs cannot provide authorization code restrictions on PALs. The Bureau of Prisons currently uses authorization code restrictions as a security enhancement to ensure that the CPE is not circumvented.
- 5) LECs have the authority to discontinue service if the service provided is not profitable. As explained earlier, this can be a dangerous situation in the correctional environment. Unannounced changes in the prisoners' environment can lead to disturbances. The Bureau of Prisons received a service disconnect letter for unprofitable collect stations in Oakdale, Louisiana. Had the collect call service been disconnected correctional officials could have been faced with a possible disturbance.
- 6) Special services such as screen coding have been inadvertently dropped from service without notice. This occurred in 1994 at our correctional complex in Allenwood, Pennsylvania. Over one thousand dollars worth of calls were charged back to the institution by

prisoners due to the local telephone company forgetting to install the service. A similar occurrence happened at the Medical Center for Federal Prisoners in Springfield, Missouri when service was accidentally dropped.

- 7) Many LECs are not capable of providing special signalling on access lines necessary for fraud prevention techniques. This feature is currently being provided by the IXC through on-site equipment at no extra charge to the Bureau of Prisons. If the LECs provide this special signalling, the burden of cost would be shifted from the IXC to the correctional facility.
- 8) Some tariffs will not allow Customer Owned Coin/Coinless Telephone (COCOT) access through switching gear such as PRXs. It is the Bureau of Prisons' understanding that the BPP will require separate telephones for collect calls only. Adding separate telephones to Bureau of Prisons facilities is not practical because of space limitations and, at many older facilities, existing cable is not adequate.

For the reasons stated in this submission and in our earlier comments, I support the Billed Party Preference rule insofar as the rule presents numerous advantages to the public consumer. However, in a prison environment, a collect call telephone system using BPP hinders and potentially eliminates many of the fraud detection and security techniques that have been developed to detect and prevent harassment, fraud, and criminal conduct in prison facilities. For these reasons, I urge you to exempt prisons and correctional facilities from the Billed Party Preference rule.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
Billed Party Preference)
for 0+ InterLATA Calls)

CC Docket No. 92-77

EX PARTE COMMENTS OF THE OFFICE FOR VICTIMS OF CRIME
OFFICE OF JUSTICE PROGRAMS
UNITED STATES DEPARTMENT OF JUSTICE
ON FURTHER NOTICE OF PROPOSED RULEMAKING

Aileen Adams
Director
Office for Victims of Crime
U.S. Department of Justice
633 Indiana Avenue, N.W.
Washington, D.C. 20531
(202) 514-6444

Dated: October 14, 1994

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OVC is concerned that BPP, if imposed without appropriate consideration for the unique telephone problems in prisons and jails, may diminish the capability of these facilities to control inmate telephone calls and result in inappropriate calls being made to crime victims. The impact of receiving an unwanted call from a prisoner can be devastating to someone who has suffered a serious victimization. Many victims of violent crime spend years -- or a lifetime -- traumatized by the crime and fearful of being revictimized. For them, a telephone call that brings the voice of their perpetrator into their very home can be a terrifying event --- one which reinforces the feeling that they can never be safe from the criminal.

The harassment and intimidation of victims and witnesses through direct or collect calls placed by offenders has been a serious problem. A 1991 nationwide survey of state corrections agencies, which was sponsored by this Office, found that the most frequent cause of complaints to adult correctional agencies from victims and witnesses was their experiencing harassment, intimidation, or retaliation by offenders or the offenders' families. Much of this abusive behavior was conducted by incarcerated offenders over the telephone.

As you are aware, to curtail telephone abuses, many correctional agencies now contract with a single long distance telephone carrier, which carries all calls from inmates on a collect call basis. These carriers provide specialized equipment that allows the telephone traffic to be limited to a certain amount of time

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in accordance with prison rules, as well as to be blocked and monitored when appropriate. Thus, the prison system can preclude inmates from contacting victims or witnesses by blocking their numbers.

Under the proposed BPP rule, the inmates' collect calls would be routed through many different telephone companies because the party billed would be able to choose the carrier. This procedure runs the risk of eliminating the ability of the facilities to exert the current type of controls which protect victims and witnesses from harassing and frightening phone calls.

Correctional agencies, including the Bureau of Prisons, believe that they simply could not maintain their current level of control if they had to deal with many different carriers.

As the Federal agency charged with ensuring fair treatment of our nation's crime victims, OVC would oppose the adoption of any Federal regulation or policy that would allow additional harm to befall those who have already suffered the anguish of victimization. Consequently, the statements made by technical experts that BPP would open the door to increased intimidation and harassment of victims are of great concern to us. We are certain that you share this concern about protecting crime victims and witnesses from intimidation and harassment by prison inmates and urge you to develop a rule for correctional facilities that both encourages competition and provides the fullest possible protection of witnesses and victims of crime.